

**ORDINANCE NO. 2355**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 27.896 ACRES, MORE OR LESS**

**WHEREAS, on the 29th day of January 2014, a zoning application, denominated Change of Zone No. 1748 was filed on behalf of CMF Bayside, LLC; and**

**WHEREAS, on the 8th day of May 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1748 be approved with conditions; and**

**WHEREAS, on the 15th day of July 2014, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of MR-RPC Medium Density Residential District – Residential Planned Community as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying southwest of Sand Cove Road (Road 394) 1,800 feet southeast of Route 54 (Lighthouse Road) and northeast of Williamsville Road (Road 395) 2,000 feet southeast of Route 54 (Lighthouse Road) and being more particularly described in Deed Book 4192, Page 131, in the Office of the Recorder of Deeds in and for Sussex County and containing 27.896 acres, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**

**This Ordinance was adopted subject to the following conditions:**

- a. The maximum number of residential dwelling units shall be 93, consisting of 33 townhouses, 30 duplexes, and 30 single family homes.**
- b. The development shall be served as part of a Sussex County Sanitary Sewer District.**
- c. The Developer shall comply with all requirements and specifications of the County Engineering Department.**
- d. The RPC shall be served by central water.**
- e. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner consistent will Best Management Practices.**
- f. The Final Site Plan for each phase of the development shall contain the approval of the Sussex Conservation District upon it.**
- g. The project will be incorporated as part of the existing Americana Bayside MR-RPC (C/Z No. 1393) and shall be subject to, and benefited by, the conditions imposed upon that development, except as modified herein.**
- h. All entrance, roadway, intersection, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT's standard determinations.**
- i. The interior street design and parking areas shall meet or exceed Sussex County street design specifications and requirements.**
- j. The Applicant shall form a Condominium Association to be responsible for the maintenance of streets, roadways, buffers, stormwater management areas and community areas.**
- k. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- l. The Final Site Plan shall include a landscape plan for all the buffer areas, showing all the landscaping and vegetation to be included in those areas.**
- m. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2355 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 15TH DAY OF JULY 2014.**



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**ROBIN A. GRIFFITH  
CLERK OF THE COUNCIL**

**The Council found that the Change of Zone was appropriate legislative action based on the following Findings of Fact:**

- A. This is the application of CMF Bayside, LLC to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential – Residential Planned Community to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 27.896 acres, more or less, land lying southwest of Sand Cove Road (Road 394) 1,800 feet southeast of Route 54 (Lighthouse Road) and northeast of Williamsville Road (Road 395) 2,000 feet southeast of Route 54 (Lighthouse Road) (Tax Map I.D. #5-33-19.00-287.00).**
- B. Council found that the TAC (Technical Advisory Committee) agencies providing comments include DeIDOT, DNREC Wastewater and Hazardous Substances/SIRS, DNREC Tank Management Section, Department of Agriculture Forest Service, the Office of the State Fire Marshal, DNREC Wetlands and Subaqueous Lands Section and Wetlands/Soil Assessment Branch, the Natural Resources Conservation Service, the County Engineering Public Works Division, and the Sussex Conservation District.**
- C. Council found that the Sussex County Engineering Department Utility Planning Division commented that the site is located in the Bayview Estates Sanitary Sewer District; that wastewater capacity is available; that Ordinance 38 construction will be required; that the current system connection charge rate is \$6,489.00; that the proposed project will connect to an existing manhole at Williamsville Road in accordance with the approved sanitary sewer concept plan; that conformity to the South Coastal Planning Study, 2005 Update, will be required; that connection to the sewer system is mandatory; that the proposed project is within planning study and system design assumptions for sewer service and there will be adequate capacity for the project as proposed; that the Engineering Department has no objection to the proposed development as long as sewer service is in accordance with the sanitary sewer concept plan that was approved on November 13, 2013; that the County requires design and construction of the collection and transmission system to meet County Engineering Department standards and procedures; that the County Engineer must approve the connection point; that all costs associated with extending sewer service will be the sole responsibility of the developer; that proper disconnection of the**

existing dwelling on the parcel is required prior to commencement of site work, issuance of a building permit or prior to demolishing the dwelling; that a proper disconnection requires a disconnection permit issued to a Sussex County licensed plumber and inspection by County personnel; and that a Concept Plan is required.

- D. Council found that James Fuqua, Attorney; Lawton Myrick of CMF; Stephen Marsh, Professional Engineer from George Miles and Buhr; and Ed Launay, Soil Scientist from Environmental Resources, Inc. were present on behalf of the application and stated that this application seeks to rezone a 27.9 acre parcel from AR-1 to MR-RPC; that they are proposing an expansion to the existing Americana Bayside MR-RPC; that the original application (C/Z No. 1393) was approved in 2001 for 1,700 residential units with a mix of single family detached dwellings, townhouses, multi-family dwelling structures, commercial areas, recreational amenities, open space, and a public golf course; that in 2011, the project was expanded (C/Z No. 1701) to add an additional 55 units; that to date, approximately 700 residential units have been constructed; that this site is bordered on the north by Sand Cove Road and is directly across from Phase 6 of the project and adjacent to Sea Country Estates, a recorded subdivision; that on the west side of the property, there are two large existing ponds, which it is assumed were originally borrow pit operations; that they are proposing to develop 93 units (30 single family lots to the west and east sides, 30 duplex units, and 33 townhouse units); and that access is proposed from both Sand Cove Road and Williamsville Road.
- E. Council also found that a wetlands delineation has been completed and that they found 0.2 acres of regulated Federal wetlands on the property; that the wetlands are not intended to be disturbed; that central water will be provided; that public sewer will be provided by Sussex County; that DelDOT has issued a Letter of No Objection as to the entrances; that the project is in accordance with the Comprehensive Land Use Plan; that the project is located in an Environmentally Sensitive Developing Area, a growth area; that the Plan references that housing in an Environmentally Sensitive Developing Area could be single family detached dwellings, multifamily dwelling structures, and townhouses; that the MR Medium Density Residential zoning requested is an appropriate zoning since it is consistent with the trend of development in the area; that residents of the project will be members of Americana Bayside and will be able to use all of the open space facilities available within Americana Bayside; that the project is proposed to have a loop road with single family dwellings on the outside edges and multi-family units and townhouses internally; that the project is proposed to be similar

to the recently approved phase “Sea Grass Bend” within the existing Americana Bayside; and that the site is approximately 0.25 mile from the existing pool and tennis facilities within Americana Bayside.

- F. Council further found that a 20-foot wooded buffer is proposed along the Sea Country Estates subdivision; that their suggested Findings of Fact and Conditions of Approval are similar to the conditions of the previous expansion; that the application is an appropriate extension to the Americana Bayside project and is encouraged by both the Comprehensive Plan and the Zoning Ordinance; that DelDOT required them to do a smaller traffic study since a Traffic Impact Study had previously been performed for the Americana Bayside applications; that pedestrians and cyclists could access any portion of the entire Americana Bayside project from this site through existing streets; that they have met with the Sussex Conservation District about stormwater management issues and erosion and sedimentation control; that the site drains from natural ditches into a tax ditch; that homes and roads will be designed to not be impacted by storm events; that the homes will not have basements; that most of the requirements from DelDOT have already been completed; that most of the amenities facilities within Americana Bayside have already been completed; that MR zoning at 4 units per acre is an appropriate density for the general area; that the project will comply with flood regulations; that no additional amenities are proposed in this phase, except for sidewalks; that the ditch between this site and the Sea Country Estates subdivision is a private ditch; that the ditch drains into a tax ditch that drains into Maryland; that maintenance of that tax ditch may improve drainage; and that the ditches are considered regulated waters according to Federal regulations.